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PATENT
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12.(Amended) The tool mount of claim 9 in which a tool secured to the tool carrier has a safety actuator with an end engageable with the upper surface of the tongue of a strip of tongue and groove flooring.

REMARKS

This application is concerned with a tool mount which positions a tool vertically and laterally with respect to a work piece. The mount has a base, a tool carrier having a surface for receiving a tool and adjustable vertically on the base to position the tool vertically with respect to the work piece and a spacer on the base to position the tool laterally with respect to the work piece. The tool mount is particularly suited for a fastener driver used in installing tongue and groove flooring. Fasteners for such flooring are typically driven into the edge of a strip of flooring, above the tongue, at a 45 degree angle and into the subfloor or supporting joist. Tongue and groove flooring is available in a range of thicknesses and with tongues of different thicknesses and widths. Different adapters have been required to mount a tool for each style of tongue and groove flooring. The tool mount disclosed and claimed herein is adjustable to accommodate the geometry of the tongue and groove flooring strips being installed.

Independent claim 1 calls for a base, a tool carrier having a surface for receiving a tool and adjustable vertically on the base to position the tool vertically with respect to the work piece and a spacer on the base to position the tool laterally with respect to the work piece. Claims 2-19 depend directly or indirectly from claim 1.

Claims 1-9, 11, 12, 15 and 17-21 are at issue. Dependent claims 10, 13, 14 and 16 have been indicated to be allowable; and claims 7 and 11 have been indicated to be allowable subject

to the obviation of indefinites. The allowable dependent claims will be rewritten in independent form if the antecedent claims are not ultimately allowed.

Claim 4 has been amended to substitute the phrase "held together" for the word "joined". It is believed this obviates the examiner's objection to claim 4.

Applicants traverse the examiner's objection to the phrase "of the order of" in claims 7, 11 and 19. Claim 7 has been amended to depend from claim 5 rather than claim 3 as the angle of the mating sliding surfaces is relevant to both the vertical and lateral components of movement of the tool carrier. The angle of 20 degrees to the horizontal has been found to provide an optimum, balanced movement of the tool carrier both vertically and laterally with respect to the work piece. However, the angle may be greater than 20 degrees, as 25 degrees or 30 degrees, or smaller than 20 degrees, as 15 degrees and still provide a usable adjustment. Conversely, a tool mount where the carrier and center plate have mating sliding surfaces at an angle of 5 degrees or 80 degrees to the horizontal would be difficult to adjust.

The examiner has indicated that claims 7 and 11, in substance, are patentable.

Applicants should be afforded latitude in claim language, MPEP § 2173.02:

"When the examiner is satisfied that patentable subject is disclosed, and it is apparent to the examiner that claims are directed to such patentable subject matter, he or she should allow claims which define the patentable subject matter with a reasonable degree of particularity and distinctness. Some latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as the examiner might desire"

The Court of Appeals for the Federal Circuit has sustained claims with similar language, e.g. "substantially equal" and "closely approximate" in *Andrews Corp. v. Gabriel Electronics*, 6 USP Q

2nd 2010 (1988), at 2012.

Similarly, the angular orientation of the wand in claim 19 provides optimum ease of movement of the tool mount but is not critical, either for novelty or for use of the tool mount.

Claim 12 has been amended to correct a typographic error. Claim 12 relates to the combination of the tool mount with a tool secured to the tool carrier. Withdrawal of the objection based on 35 U.S.C. § 112 is requested.

Claims 20, 21 are directed to vertically adjustable mounts which are alternates to the sliding plates of claim 3 and its dependent claims. The alternate mounts are described in the specification at page 6, lines 17, 18. If the rejection of the claims is repeated, detailed descriptions of the alternate mounts will be incorporated by reference.

Applicants traverse the rejection of claims 1, 2, 9, 12 and 17-19 as anticipated by Gehl et al. 3,360,176.

Claim 1 requires the tool carrier which has a surface for receiving the tool to be adjustable vertically on the base to position the tool vertically with respect to the work piece. This construction is not shown in Gehl. Reference numeral 11 is a general identifier for the fixture which has a base 20 with a cradle 22 which receives and holds nailing machine 12. The cradle 22 is integral with base 20, col. 3, line 8. There is no vertical adjustment in the tool mount to position the tool vertically with respect to the work piece. Claims 1 and dependent claims 2,9,12 and 17-19 are not anticipated by Gehl.

With regard to claim 12, Gehl's nailing machine 12 does not have a safety actuator.

With regard to claims 17-19, the tool mount of Gehl does not have a handle for an

operator to move the tool mount and tool across the subfloor, along the length of the strip of tongue and groove flooring. Element 18 noted by the examiner is a handle of the nailing machine 12; it is not a "wand" as required by claims 18 and 19, and it does not extend both upward at an angle of the order of 45 degrees and away from the tongue and groove strip at an angle of 45 degrees, as required by claims 18 and 19.

Applicants traverse the rejection of claims 3-6, 8, 15 and 20, 21 as unpatentable over Gehl in view of McAllister 6,269,996. Claim 3 depends from claim 1 and further defines the base as comprising a center plate supported by a pair of side plates and requires that the tool carrier slide on the center plate with a vertical component of movement. Claims 4-6, 8 and 15 depend directly or indirectly from claim 3.

As pointed out above, Gehl does not show a tool carrier having a surface which receives a tool and is adjustable vertically on a base to position the tool vertically with respect to the work piece. Similarly, McAllister does not have a tool carrier with a vertical component of movement on a center plate as required by claim 3. Element 26, characterized by the examiner as a tool carrier, is identified by McAllister as "a driver frame", col 4, ln 43. McAllister describes the purpose of driver frame 26 as positioning actuator 30 to operate a trigger (not shown) on driver 18, col. 4, lines 44-46. There is no mention of vertical and lateral movement of a tool carrier at col. 4, lines 42-55, as asserted by the examiner. The rejection of claim 3 has no basis in the cited art.

Claim 4 depends from claim 3 and describes the center plate and side plates as held together by a fastener with a tool carrier clamped in position on the center plate by the side plates. No such structure is found in Gehl.

Claim 5 depends from claim 3 and specifies that the tool carrier has a lateral component of movement and that the spacer, which positions the tool laterally with respect to the work piece, is adjustable laterally on the base. Again, the claimed construction is not found in McAllister. The element 36 of McAllister, characterized by the examiner as a spacer, is a caster, col. 5, ln.s 20-30. The caster does not position the tool laterally with respect to the work piece nor is it laterally adjustable on a base. The function of a spacer is performed in McAllister by guide roller 40, col. 5, ln. 60.

Claim 6 depends from claim 5 and describes the center plate and side plates as being joined by a threaded fastener and requires that the tool carrier and spacer be clamped into position on the center plate by the side plates. No such construction is shown by McAllister.

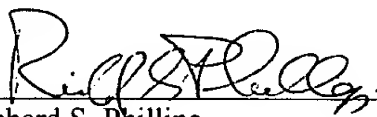
Claim 8 depends from claim 5 and requires that the spacer slide laterally on the center plate. This construction is not shown in McAllister.

Claim 15 depends from claim 8 and calls for means limiting the movement of the tool carrier and spacer parts with respect to the base. The prior art shows neither the claimed carrier nor the claimed spacer and accordingly can have no means for limiting movement of such parts.

Claims 20 and 21 depend from claim 1 and call for alternative tool carriers which are not shown either by Gehl or McAllister.

Reconsideration and allowance of the application as now presented are requested.

Respectfully submitted,


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CLAIM

WE CLAIM:

1. A tool mount for positioning a tool vertically and laterally with respect to a work piece, comprising:
a base;
a tool carrier having a surface for receiving a tool and adjustable vertically on said base to position the tool vertically with respect to the work piece; and
a spacer on the base to position the tool laterally with respect to the work piece.
2. The tool mount of claim 1 wherein the spacer engages the work piece.
3. The tool mount of claim 1 wherein the base comprises a center plate supported by a pair of side plates and the tool carrier slides on the center plate with a vertical component of movement.
4. ^{held together} ^(Amended) The tool mount of claim 3 in which the center plate and side plates are joined by a fastener and the tool carrier is clamped in position on the center plate by the side plates.

5. The tool mount of claim 3 wherein the tool carrier has a lateral component of movement and the spacer is adjustable laterally on the base.

6. The tool mount of claim 5 in which the center plate and side plates are joined by a threaded fastener and the tool carrier and spacer are clamped in position on the center plate by the side plates.

(Amended)

7. ^{5 e} The tool mount of claim ³ in which said tool carrier and center plate have mating sliding surfaces at an angle of the order of 20 degrees to horizontal. //

8. The tool mount of claim 5 in which said spacer slides laterally on said center plate.

9. The tool mount of claim 1 for positioning a tool to drive fasteners through tongue and groove flooring strips into a subfloor.

10. The tool mount of claim 9 in which said spacer engages the edge of a tongue and groove flooring strip, below the tongue, to position the tool mount laterally of the tongue and groove strip on the subfloor. //

11. The tool mount of claim 7 in which a tool on the tool carrier has an operative axis extending at 45 degrees to the horizontal. //

(Amended)

12. ^A The tool mount of claim 9 in which a tool secured to the tool carrier has a safety actuator with an end engageable with the upper surface of the tongue of a strip of tongue and groove flooring. //

13. The tool mount of claim 8 with guides between the center plate and the tool carrier and spacer, respectively. //

14. The tool mount of claim 13 in which each guide comprises a dovetail rib and a mating slot on adjacent sliding surfaces. //

15. The tool mount of claim 8 with means limiting movement of the tool carrier part and spacer part, respectively, with respect to said base.

16. The tool mount of claim 15 in which the movement limiting means comprises a pin on one part received in a mating slot on the other part. //

17. The tool mount of claim 1 for a tool which fastens tongue and groove flooring to a subfloor, the base of the tool mount resting on the subfloor with the spacer